

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ROBERT WENDT,

Plaintiff,

-vs-

04-CV-995C(SC)

JO ANNE B. BARNHART,
COMMISSIONER OF SOCIAL SECURITY,

Defendant.

The above-referenced case was referred to Magistrate Judge Hugh B. Scott pursuant to Title 28 U.S.C. § 636(b)(1)(B).¹ On January 18, 2007, Magistrate Judge Scott filed a Report and Recommendation recommending that the plaintiff's motion for judgment on the pleadings be granted and the defendant's motion for the same relief be denied.

The court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge Scott's Report and Recommendation, the plaintiff's motion for judgment on the pleadings is granted, the defendant's motion for judgment on the pleadings is denied, and the case is remanded pursuant to the fourth sentence of 42 U.S.C. § 405(g) for further proceedings consistent with the Report and Recommendation.

So ordered.

¹ This case was transferred to the undersigned by order of the Hon. Richard J. Arcara dated December 22, 2006 (Item 15).

____ \s\ John T. Curtin____
JOHN T. CURTIN
United States District Judge

Dated: 2/14 2007
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